

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**GALE WOERMAN, SPECIAL
ADMINISTRATOR OF THE
ESTATE OF RALPH WOERMAN,
Deceased,**

Plaintiff,

vs.

**SSC WEST POINT OPERATING
COMPANY, LLC d/b/a WEST
POINT LIVING CENTER, A
Skilled Nursing Facility, SAVA
SENIORCARE LLC d/b/a WEST
POINT LIVING CENTER, and
JOHN DOES 1-10.**

Defendants.

**NOTICE OF REMOVAL
AND DEMAND FOR
JURY TRIAL**

PLEASE TAKE NOTICE that Defendants SSC West Point Operating Company LLC, d/b/a West Point Living Center, a Skilled Nursing Facility, and SavaSeniorCare, LLC (erroneously sued as “SavaSeniorCare LLC, d/b/a West Point Living Center”), by and through their counsel of record, hereby remove the state action described below to the United States District Court for the District of Nebraska. Defendants further state as follows:

1. The state action to be removed to this Court was filed in the District Court of Cuming County, Nebraska, Case No. CI 13-49, and is captioned Gale Woerman, Special Administrator of the Estate of Ralph Woerman, Deceased, vs. SSC West Point Operating Company, LLC, d/b/a West Point Living Center, a Skilled Nursing Facility, SavaSeniorCare LLC d/b/a West Point Living Center, and John Does 1-10. The action was filed on May 17, 2013.

2. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders served upon Defendants in the state court action are attached hereto marked as Exhibit "A."
3. Pursuant to 28 U.S.C. §1446(b), this Notice of Removal is timely having been filed within one (1) year after commencement of this action and within thirty (30) days after receipt of the Plaintiff's Complaint.
4. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332(a)(1), and is one which may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441(b) insofar as this is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.
5. Plaintiff's Complaint establishes that the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, insofar as it seeks damages for negligence resulting in the wrongful death of Gale Woerman and loss of the comfort of his society and companionship.
6. Based upon the pleadings and all reasonable inquiry, all named Defendants, by and through their counsel of record, represent as follows:
 - a. Gale Woerman, in his capacity as the Special Administrator of the Estate of Ralph Woerman, is a citizen of Nebraska. See 28 U.S.C.A. § 1332(2)(West 2013) (providing that "the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent.").

b. SCC West Point Operating Company LLC, d/b/a West Point Living Center is a Delaware limited liability company authorized to do business in Nebraska. The LLC's sole member is SSC Submaster Holdings LLC, a Delaware limited liability company. The sole member of SSC Submaster Holdings LLC, a Delaware limited liability company, is SSC Equity Holdings, LLC, a Delaware limited liability company. The sole member of SSC Equity Holdings, LLC, a Delaware limited liability company, is SavaSeniorCare, LLC, a Delaware limited liability company. (Affidavit of Wynn Sims at ¶ 3, attached hereto as Exhibit B). See *GMAC Commercial Credit LLC v. Dillard Dept. Stores, Inc.*, 357 F.3d 827, 829 (8th Cir. 2004) (providing that "an LLC's citizenship is that of its members for diversity jurisdiction purposes.").

c. Defendant SavaSeniorCare, LLC, is a Delaware LLC. The only member of SavaSeniorCare, LLC is a limited liability company, SVCARE Holdings LLC. The only member of SVCARE Holdings LLC is a limited liability company, Canyon Sudar Partners, LLC. The members of Canyon Sudar Partners, LLC are Leonard Grunstein and Murray Forman. Mr. Grunstein is a citizen of New Jersey and Mr. Forman is a citizen of New York. Contrary to the allegations of the Complaint, SavaSeniorCare, LLC is not doing business as West Point Living Center, and it is not authorized to do business in Nebraska. (Affidavit of Wynn Sims at ¶ 4, attached hereto as Exhibit B).

d. The citizenship of the John Does is irrelevant. See 28 U.S.C.A. § 1441(b)(West 2013)(“In determining whether a civil action is removable on the basis of the jurisdiction under section 1332(a) of this title, the citizenship of defendants sued under fictitious names shall be disregarded.”).

7. Promptly upon filing this Notice, Defendants represent that they will give notice in writing thereof to Plaintiff and will file a copy of this Notice of Removal with the Clerk of the District Court for Cuming County, Nebraska.

JURY DEMAND AND REQUEST FOR TRIAL IN LINCOLN, NEBRASKA

Defendants respectfully request trial by jury pursuant to NECivR 38.1 and FED. R. Civ. P. 81(c), and requests trial be had in Lincoln, Nebraska pursuant to NECivR 40.1(b).

WHEREFORE, Defendants SSC West Point Operating Company LLC, d/b/a West Point Living Center, a Skilled Nursing Facility, and SavaSeniorCare, LLC (erroneously sued as SavaSeniorCare LLC d/b/a West Point Living Center) pray that this action be removed to the United States District Court for the District of Nebraska, and that trial be had on all triable issues in Lincoln, Nebraska

DATED this 27th day of June, 2013.

SSC WEST POINT OPERATING COMPANY
LLC, d/b/a WEST POINT LIVING CENTER, A
Skilled Nursing Facility, and SAVA
SENIORCARE, LLC (erroneously sued as
SAVA SENIORCARE LLC d/b/a WEST POINT
LIVING CENTER), Defendants.

BY: /s/ Dean J. Sitzmann
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CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2013, I electronically filed the foregoing **Notice of Removal and Demand for Jury Trial** with the Clerk of the Court using CM/ECF system which sent notification of such filing to the following:

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Attorney for Plaintiff

/s/ Dean J. Sitzmann